

United States
Circuit Court of Appeals
For the Ninth Circuit.

HENRY F. MARSHALL,

Appellant,

vs.

SAMUEL W. BACKUS, as Commissioner of Immigration for the Port of San Francisco,

Appellee.

In the Matter of the Application of HENRY F. MARSHALL for Writs of Habeas Corpus on Behalf of Thirty-five Hindus.

Transcript of Record.

Upon Appeal from the United States District Court for the Northern District of California,
First Division.

Filed

JAN 18 1915

United States
Circuit Court of Appeals
For the Ninth Circuit.

HENRY F. MARSHALL,
Appellant,
vs.

SAMUEL W. BACKUS, as Commissioner of Immigration for the Port of San Francisco,
Appellee.

In the Matter of the Application of HENRY F. MARSHALL for Writs of Habeas Corpus on Behalf of Thirty-five Hindus.

Transcript of Record.

Upon Appeal from the United States District Court for the Northern District of California,
First Division.

INDEX TO THE PRINTED TRANSCRIPT OF
RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

	Page
Affidavit of H. Santokh Singh.....	52
Affidavit of Kehar Singh.....	54
Affidavit of Mangal Singh.....	56
Affidavit of Neva Singh.....	57
Affidavit of Somond Singh.....	55
Arraignment	35
Arraignment.....	40
Arraignment.....	44
Arraignment.....	49
Assignments of Error.....	6
Certificate of Clerk to Transcript on Appeal..	78
Citation on Appeal—Copy.....	74
Citation on Appeal—Original.....	79

EXHIBITS:

Exhibit “A” to Petition for Writ of Habeas Corpus—Warrant of Deportation.....	25
Exhibit “B” to Petition for Writ of Habeas Corpus—Application for Warrant of Arrest.....	28
Exhibit “C” to Petition for Writ of Habeas Corpus—Warrant of Arrest...	29
Exhibit “D” to Petition for Writ of Habeas Corpus—Testimony Taken Be-	

Index.	Page
EXHIBITS—Continued:	
fore Examining Inspector of Immigration.....	32
Exhibit “E” to Petition for Writ of Habeas Corpus—Affidavit of Khan Singh.....	50
Letter, October 11, 1913, Henry F. Marshall to Commissioner of Immigration.....	52
Opinion.....	1
Opinion and Order Denying Petitions for Writs of Habeas Corpus.....	1
Order Allowing Appeal.....	13
Order Extending Time to September 20, 1914, to File Record, etc., in Appellate Court....	81
Order to Show Cause.....	59
Petition and Notice of Appeal.....	4
Petition for a Writ of Habeas Corpus.....	14
Praecipe.....	77
Praecipe for Transcript on Appeal.....	75
Return of Service of Writ.....	59
Return on Service of Writ.....	14
Return to Order to Show Cause.....	60
TESTIMONY:	
KAHN SINGH.....	33
KEHER SINGH.....	37
MANGAL SINGH.....	41
NEVA SINGH.....	45

**Opinion and Order Denying Petitions for Writs of
Habeas Corpus.**

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 15,500.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on behalf of Kaiser Singh, Isser
Singh, Shumonda Singh, Naran Singh, Go Pi,
Amanat Khan and Rehmat Khan.

No. 15,502.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on Behalf of Attar Singh.

No. 15,503.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on Behalf of Khan Singh, Keher
Singh, Mangal Singh and Neva Singh.

No. 15,524.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on Behalf of Bran Singh.

No. 15,528.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on Behalf of Nika Singh, Ottam
Singh, Portapa, Harnan Singh, Joala Singh,

Argen Singh, Sunda Singh, Mala Singh, Har-dut Singh, Bir Singh, Sarwan Singh and Dhin Mohammad.

No. 15,529.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on Behalf of Sucha Singh, Niaz Ma Khan, Gulam Din and Dhian Singh. [1*]

No. 15,530.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on Behalf of Radha Singh, Gurzechen Singh, Gori Shankar, Variam Singh and Kehir Singh.

HENRY F. MARSHALL, Attorney for Petitioners.

JOHN W. PRESTON, U. S. Atty., and WALTER E. HETTMAN, Asst. U. S. Atty., Attorneys for Respondent.

These cases involve the right of the individuals named to land at the port of San Francisco, having already landed at Manila, and coming thence here.

In the case of Rhagat Singh et als., 209 Fed. 700, this Court decided that the Immigration officers on the mainland might exclude therefrom aliens theretofore admitted to the Philippine Islands, upon proof satisfactory to them that the aliens so excluded are persons likely to become a public charge. Counsel for the present petitioners urges very earnestly and very ably that this is not a case of exclusion but of

*Page-number appearing at foot of page of original certified Record.

expulsion. Whatever it be called, the real question still remains: "Does admission to the Philippines *ipso facto* entitle an alien to admission to the mainland?" It was stated in the case of Rhagat Singh *supra*: There "may be reasons for rejecting an alien at continental ports which would not exist if he were applying to enter the Philippines. Labor and climatic conditions and standards of living are so diverse that one going to the Philippines, who would not there be likely to become a public charge, might well be likely to become such if he proceeded thence to the mainland. A more rigid test may, therefore, well be applied to those seeking admission to the mainland than that applied to those seeking admission to the Philippines." [2]

The supervision over the admission of aliens to the mainland has been entrusted to the Commissioner General of Immigration, while the supervision of the admission of aliens to the Philippines is under the control of the Secretary of War. It is not a fair statement of the situation to say that the proceedings of the Immigration Department here sought to be reviewed, is an attempt on the part of the Immigration officers to review the action of the Secretary of War in admitting these aliens at the Port of Manila. Had the aliens been content to remain in the Philippines, to which place alone the Secretary of War had power to admit them, no question of their right to do so could have been moved by the Immigration authorities. But when they left the Philippines for the mainland they left the only place to which they had been admitted, and the only place to which those

admitting them had any authority to admit them, and when they reached the mainland they were naturally confronted by those whose duty it is to see that no alien shall be admitted thereto who is likely to become a public charge. I am satisfied, therefore, that the action of the authorities at Manila is not conclusive upon the Immigration officers on the mainland, and while the law is, in its present form, very uncertain and unsatisfactory, I am of the opinion that whether we call it exclusion or expulsion, the Immigration officers may prevent the entry to the mainland of aliens who have heretofore been permitted to land at Manila for any reason which would lawfully operate to prevent their landing here, in the first instance, if they had never gone near the Philippines; if they so have the power to exclude, as the aliens appear to have had a fair hearing, the fact that this was done under a Warrant of Arrest is immaterial.

The petition for a writ of habeas corpus must be denied, and it is so ordered.

March 10th, 1914.

M. T. DOOLING,
Judge. [3]

[Endorsed]: Filed Mar. 10, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [4]

(Style of Court, Titles and Numbers of Causes.)

Petition and Notice of Appeal.

Now comes the petitioner above named, and the persons above named for and on whose behalf said

petitions were filed, appellants herein, through their attorney, feeling themselves aggrieved by and at the Order and Judgment of the above-entitled Court made and entered herein on the 10th day of March, A. D. 1914, denying their petitions for Writs of Habeas Corpus, and hereby appeal from said Order and Judgment made as aforesaid, to the United States Circuit Court of Appeals for the Ninth Circuit, because of certain errors made to their prejudice, all of which will appear more in detail from the Assignment of Errors, which is filed herewith; and appellants further represent to this Court that the facts and circumstances in each of the above-entitled causes are identical and that the pleadings therein vary only as to the names of the persons interested, the times of their arrival and of various proceedings, and the dates of various warrants and documents therein, all of which has been frequently stipulated in open Court by the respective attorneys of record; and appellants further represent that the encumbering of the record by needless repetition may be avoided by selecting the record in one case as typical of them all, and that thereby appellants will be relieved of burdensome, useless and unnecessary expense in the preparation and printing of said record;

WHEREFORE, appellants pray that an appeal may be granted in their behalf to the United States Circuit Court of Appeals for the Ninth Circuit, for the correction of the errors complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause No. 15,503, duly authenticated, may be sent and transmitted to the

said United States Circuit Court of Appeals for the Ninth Circuit, as typical of the record in all of the above-entitled causes.

Dated March 18, 1914.

HENRY F. MARSHALL,

Attorney for Petitioner and Appellants. [5]

Service and receipt of a copy of the within Petition and Notice is admitted this 18th day of March, 1914.

WALTER E. HETTMAN,

Asst. United States Attorney.

[Endorsed]: Filed Mar. 18, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [6]

(Style of Court, Titles and Numbers of Causes.)

Assignments of Error.

Now comes Henry F. Marshall, the petitioner in each of the causes above named, and files his assignments of error upon which he will rely on his appeal in the above-entitled matters, this day taken from the Order and Judgment made and entered by this Court on the 10th day of March, 1914, denying the petitions of said petitioner for Writs of Habeas Corpus in each of the above-named causes, and petitioner alleges that the District Court erred in holding contrary to the contention of petitioner and in failing and refusing to hold with the contention of petitioner in each and every the particulars hereinafter set forth, as follows:

I.

The Court erred in refusing to take jurisdiction of each of the petitions for a writ of habeas corpus filed

by petitioner for and on behalf of the several Hindoos therein named.

II.

The Court erred in dismissing each of said petitions.

III.

The Court erred in not granting said petitions and each of them and in not causing to issue the writs therein prayed.

IV.

The Court erred in denying each of said petitions and in refusing the writs therein prayed.

V.

The Court erred in failing and refusing to distinguish between (1) the exclusion of an alien applying for original admission to the United States and (2) the expulsion from the United States of an alien previously admitted to land. [7]

VI.

The Court erred in refusing to hold that the causes (1) for the exclusion of an alien applicant and (2) for the expulsion of an alien previously admitted are in law separate and distinct and not interchangeable.

VII.

The Court erred in refusing to hold that, in expulsion cases, the burden of proof is upon the Department.

VIII.

The Court erred in refusing to hold that, for all immigration purposes, the Philippine Islands are part of the United States.

IX.

The Court erred in refusing to hold that an alien, duly admitted to land by the duly constituted authorities under the Immigration law at ports in the Philippines, is free to pass from one part of the United States (Manila) to another (San Francisco) without further examination or re-examination as to his qualifications for original entry.

X.

The Court erred in predicating its decision upon the assumption that "There may be reasons for rejecting an alien at Continental ports which would not exist if he were applying to enter the Philippines," there being no provision of law thereto, nor any evidence to that effect before the Court.

XI.

The Court erred in holding that "membership in the excluded classes at time of entry" renders an alien regularly admitted to lands liable to expulsion.
[8]

XII.

The Court erred in refusing to hold that causes for exclusion, in order to bring a specified alien within "membership in the excluded classes," must be present existing causes at the time of entry.

XIII.

The Court erred in refusing to hold that "the opinion that an alien is likely to become a public charge," in order to bring that alien within "membership in the excluded classes," must be a present existing opinion at time of original entry; and particularly in refusing to hold that a subsequent opinion to that

effect does not bring the alien within such membership.

XIV.

The Court erred in holding that a present opinion that an alien at some time past was liable to become a public charge constitutes a ground for the expulsion of such alien.

XV.

The Court erred in refusing to hold that the administration of the Immigration laws of the United States, in so far as they apply to aliens seeking admission at Philippine ports, is entrusted by law to the Secretary of War and the Insular Government, to the exclusion of the Secretary of Labor and the Commissioner-General of Immigration.

XVI.

The Court erred in refusing to hold that the determination of the question as to whether or not a certain alien, applying for admission to the United States at a Philippine port, is a person likely to become a public charge is entrusted to the Secretary of War and the Insular Government to the exclusion of the Secretary of Labor and the Commissioner-General of Immigration; that the attempted determination of such question by the Secretary of Labor and Commissioner-General is without jurisdiction [9] and in excess of the jurisdiction conferred upon them by law; and that the attempt, by said Secretary of Labor and Commissioner-General, to reverse or review the decision rendered upon such question, by the Secretary of War and Insular Government, is without jurisdiction and in excess of the

jurisdiction conferred upon them.

XVII.

The Court erred in holding that the Secretary of Labor and Commissioner-General, acting under authority of the Immigration law, may promulgate and enforce a rule, by the terms of which aliens, already duly admitted to the United States, are denied the right to freely pass from one to another part thereof, except upon submitting themselves to a re-examination of their qualifications for original admission.

XVIII.

The Court erred in refusing to hold that the following constituted "unfairness in the hearing," to wit, placing in the record quantities of interviews, affidavits and newspaper clippings prejudicial to Hindoos as a race of people, the same not being shown to apply to the persons sought to be deported.

XIX.

The Court erred in refusing to hold that the following constituted "unfairness in the hearing," to wit, placing in the record evidence as to the disease "hookworm," which evidence the aliens were not permitted to inspect, nor answer, the same being done without the knowledge of the said aliens or their attorney.

XX.

The Court erred in holding that, in expulsion cases, the finding by the Court that the hearing had been fair precluded the Court from an examination into the merits. [10]

XXI.

The Court erred in refusing to go into the merits of the cases, to examine the quantity, quality and effect of the evidence, and to determine whether or not the Department had established its contentions by a preponderance of the evidence in accordance with the burden of proof resting upon it so to do.

XXII.

The Court erred in refusing to consider and determine whether or not the warrants of deportation, in so far as the same are based upon "dangerous contagious disease," are sustained by any evidence, or by a preponderance of evidence, or whether the evidence before the Department is conclusively against the finding in that regard.

XXIII.

The Court erred in refusing to hold that the warrants of deportation are without authority of law, and are without and in excess of the jurisdiction of the Secretary of Labor to issue such warrants, and that each and all of them are for these reasons null and void.

XXIV.

The Court erred in refusing to hold that, in law, "membership in the excluded classes at time of entry" is not of itself a ground for the expulsion of an alien.

XXV.

The Court erred in refusing to hold that, under the law applicable to an admitted alien, "liability to become a public charge at time of entry" is not sufficient to bring such alien within membership in the

excluded classes, and liable to expulsion as such.

XXVI.

The Court erred in refusing to hold that each and every [11] said warrants of deportation are null and void, in that they fail to charge a cause for expulsion under the Immigration law or any law of the United States.

XXVII.

The Court erred in refusing to hold that said Hindoos, having been admitted to the United States, are not applicants for admission and therefore not subject to the exclusion laws.

XXVIII.

The Court erred in holding that said Hindoos might lawfully be expelled from the United States, in that there was no evidence before the Department or the Court to show that they come within any of the classes of alien residents of the United States for whom the statute provides expulsion.

Respectfully submitted,

HENRY F. MARSHALL,

Attorney for Petitioner and Appellants.

Service and receipt of a copy of the within assignment of errors is admitted as of this 18th day of March, 1914.

WALTER E. HETTMAN,

Asst. United States Attorney.

[Endorsed]: Filed Mar. 18, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [12]

(Style of Court, Titles and Numbers of Causes.)

Order Allowing Appeal.

The petitioner above named, and the persons above named for and upon whose behalf said petitions were filed, having, through their attorney, presented to this Court this day their Petition on Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from and upon the order and judgment made and entered by this Court on the 10th day of March, 1914, denying their petition for Writs of Habeas Corpus, and having presented to the Court at the same time their Assignment of Errors, and having moved the Court by their counsel for an order allowing said appeal; and counsel for said appellants and the United States Attorney having heretofore in open court stipulated that the facts and circumstances in each of said causes are identical, and that the pleadings vary only as to names of persons interested, times of arrival and of proceedings, and dates of warrants and documents, and appellants having prayed that said appeal may be heard upon the record in one case as typical of all, and good cause therefor to me appearing,—

IT IS HEREBY ORDERED that said appeal be and the same is hereby allowed; and, further, that a certified copy of the record, proceedings and papers in the above-entitled Cause No. 15,503 be prepared and transmitted by the Clerk of this Court to the United States Circuit Court of Appeals for the Ninth Circuit within the time prescribed by law, said

Cause No. 15,503 being hereby designated as typical of all of the above-named causes;

AND IT IS FURTHER ORDERED that during the pendency of this appeal all proceedings against the above-named persons be stayed.

Done in open court this 18 day of March, 1914.

M. T. DOOLING,
District Judge. [13]

Return on Service of Writ.

United States of America,
Northern District of California,—ss.

I hereby certify and return that I served the annexed order allowing appeal, on Samuel W. Backus, by handing to and leaving a true and attested copy thereof with Samuel W. Backus, Commissioner of Immigration of the Port of San Francisco, at Angel Island, Cal., personally, at Angel Island, Cal., in said District on the 20th day of March, A. D. 1914.

J. B. HOLOHAN,
U. S. Marshal.
By J. W. Grover,
Office Deputy.

[Endorsed]: Filed Mar. 18, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [14]

(Style of Court, Title of Cause No. 15,503.)

Petition for a Writ of Habeas Corpus.

To the Honorable M. T. DOOLING, Judge of the
Above-entitled Court:

The Petition of Henry F. Marshall respectfully
shows:

I.

That your petitioner is a resident of the City and County of San Francisco, State of California, and that he is an attorney at law and attorney of record for Khan Singh, Keher Singh, Mangal Singh and Neva Singh, above named, for and on behalf of each of whom this petition is made.

II.

That this petition is made for and on behalf of these four men thus grouped together, for the reason that they are thus grouped by the Department of Labor of the United States.

III.

That for the convenience of the Court the persons for and on whose behalf this petition is filed will be hereinafter referred to as Four Hindus.

That the said Four Hindus, and each of them, are *bona fide* domiciled residents, inhabitants and denizens of the United States of America; that they were born in India and are subjects of Great Britain; that they came to the United States by way of Manila, Philippine Islands, and were admitted after due inspection by the Immigration Officers at the Port of Manila; and that thereupon they became and ever since have been and now are lawfully in the United States of America; [15]

That upon their arrival in Manila they paid the head-tax required by the provisions of Immigration Act, February 20th, 1907 (34 Stat. 898), as amended by the Acts of March 26, 1910 (34 Stat. 263), and March 4th, 1913, and the Immigration Rules of November 15th, 1911.

IV.

That after residing for various period in Manila, and in other portions of the Philippine Islands, said Four Hindus signified to the Immigration Officers and to the Insular Collector of Customs at Manila their intention to go to the continent and were furnished with certificates (Form 546 P. I.) as evidence of their regular entry at said Insular Port.

V.

That thereafter, in order to move from one part of the territory and jurisdiction of the United States of America to another, said Four Hindus sailed from the Port of Manila as passengers on the SS. "Nippon Maru" to take up their residence and continue their domicile and remain denizens of the United States in another part of the territory and jurisdiction of the United States of America, and, on the 22d day of September, 1913, arrived at the Port of San Francisco.

VI.

That the said Four Hindus are unlawfully imprisoned, detained, confined and restrained of their liberty by Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, at the Immigration Station at Angel Island, California, or at some other place in the Northern District of California, and are about to be deported to India from the United States and from the State of California and from their domicile, and to be deprived of their residence and the privileges and immunities of denizens of the United States of America, against [16] their will and without their consent.

VII.

That the said Four Hindus, and each of them, are so imprisoned, detained, confined and restrained of their liberty by the said Commissioner of Immigration, as aforesaid, and are about to be deported as aforesaid, and the said Commissioner claims the right to so imprison, detain, confine and restrain, and to so deport the said Four Hindus under and by virtue of a certain warrant of deportation, issued by the Secretary of Labor of the United States, whereby it is ordered that the said Four Hindus be deported to India, a copy of which warrant is hereto attached and made a part hereof and is marked Exhibit "A."

VIII.

The *the* proceedings had and taken preliminary to and leading up to the issuance of the said warrant of deportation, were and are as follows:

That subsequent to the said entry into the United States of said Four Hindus, and immediately upon their arrival at the Port of San Francisco as aforesaid, and prior to the issuance of said warrant of deportation, to wit, on the 22d day of September, 1913, the said Four Hindus were taken into custody by the said Commissioner;

That thereafter, to wit, on the 23d day of September, 1913, an application was made to the Secretary of Labor by said Commissioner of Immigration for a warrant for the arrest of the said Four Hindus, a copy of which application is attached hereto and made a part hereof, and marked Exhibit "B"; in which said application it was charged that the said Four Hindus were unlawfully in the United States

for the following reasons: [17]

“That these aliens are laborers; that there is no demand in this section for that class of labor; further that there is a decided prejudice among the people of this locality against this class of labor.”

That thereafter, to wit, on the 24th day of September, 1913, a warrant was issued by the then Acting Secretary of Labor for the arrest of the said Four Hindus, and others, a copy of which warrant is hereto attached and made a part hereof, and marked Exhibit “C”; in which warrant it is charged that said Four Hindus are unlawfully in the United States for the reason “that the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States.”

That on certain days subsequent to the issuance of said warrant, to wit, on the 24th and 25th days of September, 1913, the said Four Hindus were, while detained and under arrest at said Immigration Station at Angel Island, examined by Examining Inspector R. E. Peabody, through an interpreter, which said examination was reduced to a written record by an official stenographer, a copy of which said record is attached hereto and made a part hereof, and marked Exhibit “D”; that at said examination the above-named subjects of examination, and each of them, answered to the best of their ability all of the questions which were then propounded to them.

IX.

That the said Four Hindus, and each of them, were denied a fair hearing in good faith, such as is

guaranteed by law, and in this behalf petitioner alleges:

(1) That the record of the above-mentioned [18] examination discloses upon its face that said Four Hindus were not informed of the charges nor allegations made against them or of the issuance of the warrant for their arrest until after the conclusion of their examinations.

(2) That at the above-mentioned examinations the said Four Hindus were the only persons examined; that no testimony or evidence of any kind or character other than that of the said Four Hindus was taken or offered; that there has been no other, further or subsequent hearing of which said Four Hindus, or any of them, or their attorney, had any notice, knowledge or information;

(3) That, at the expiration and conclusion of said examinations, the said Four Hindus were informed by the said Examining Inspector that "You are further informed that this hearing is given you for the purpose of giving you the opportunity to show cause, if any you have, why you should not be deported," and that thereafter said Four Hindus, and each of them, offered and filed with the said Samuel W. Backus, Commissioner of Immigration, affidavits executed in due form, showing and tending to show, that said Four Hindus, and each of them, are not and were not liable to become public charges, which affidavits are made a part hereof and marked Exhibit "E," being in the form of copies of said originals;

(4) That the said Samuel W. Backus, Commis-

sioner as aforesaid, detailed an Immigration Inspector to canvass the people of the State of California for evidence to support the charges made against the said Four Hindus; that no evidence was obtained, but that there was placed in the records certain expressions of passion and prejudice culled from persons in various parts of the State of California in the form of affidavits, [19] interviews and letters, made, given and written by persons unknown to your petitioner, or to any one of the Four Hindus aforesaid, in *ex parte* proceedings, and without said Four Hindus, or any of them, or their attorney, having an opportunity to cross-examine the persons who made the affidavits, gave the interviews or wrote the letters; that there was also placed within the record about 1,000 newspaper columns of newspaper clippings of matter, views and reports of a character adverse to and prejudicial to the Hindus as a race; that copies of said affidavits, letters, interviews and newspaper clippings are omitted herefrom, the reason for this omission being that it is impossible for your petitioner to secure copies thereof, and for the further reason that said Four Hindoos have not sufficient funds to defray the expense of copying that great volume of matter;

(5) That thereafter, according to petitioner's information and belief, a certain so-called record was compiled in said cases by and under the direction of the said Commissioner, a complete copy of which so-called record is contained, so far as your petitioner is informed and believes, in the said Exhibits herein (except that in said exhibits there is not included

the *ex parte* statements, letters, interviews, affidavits and newspaper clippings hereinbefore referred to); that upon the so-called record your petitioner prepared and filed with the said Commissioner of Immigration a brief on behalf of said Four Hindus; (that a copy of said brief is not included herein for the reason that your petitioner has no remaining copy thereof, nor is any copy thereof available to him); that to said so-called record and brief there was added a document described as "Views of the Immigration Officer in Charge"; that no copy of [20] said document is included herein for the reason that neither your petitioner, nor any of said Four Hindus, has ever seen or been permitted to see said document, but, on the contrary, it is withheld by the Immigration Authorities on the claim that said document is a confidential communication;

(6) That said so-called record, together with the brief of petitioner and the document hereinbefore last referred to, was transmitted to the Secretary of Labor, the method of transmission, being, as your petitioner is informed and believes, by the United States Mail.

X.

That the said Secretary of Labor and the said Commissioner of Immigration have refused and denied the said Four Hindus, and each of them, a fair hearing in good faith in this, to wit:

(1) That the said warrant of deportation was so issued, as aforesaid, by the said Secretary of Labor upon and by reason of a finding made by the said Secretary that the said Four Hindus were members

of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States; and in this regard petitioner refers particularly to Exhibit "A" herein;

(2) That the said finding was so made and the said warrant of deportation was so issued by the said Secretary without any competent evidence having been submitted to him and without any competent evidence having been introduced by the said Commissioner, and without any evidence, competent or otherwise, against the said Four Hindus having been introduced for the inspection of Four Hindus, or any of them, or of their said attorney; [21]

(3) That the said Commissioner caused to be inserted in the so-called record a large number of *ex parte* affidavits, interviews, letters, and newspaper clippings, they and each of them having no reference whatever to the said Four Hindus, or to any of them, but the same being only writings of passion and prejudice directed against the Hindu Race.

XI.

That the said Secretary of Labor issued said warrant of deportation and so directed the deportation of the said Four Hindus by and through errors and mistakes of law in this, to wit:

(1) That the warrant is issued upon the charge that said Four Hindus have been "found in the United States in violation of law, in this, that the said aliens are members of the excluded classes in that at the time of their entry into the United States they were persons likely to become public charges"; and that said alleged grounds for the issuance of said

warrant, are not grounds for the deportation of any domiciled alien, under the Immigration Law or under any law of statute of the United States;

(2) That the issuance of said warrant of deportation by the Secretary, upon the grounds set forth therein, is in violation of law and is in excess of the power conferred upon the said Secretary by law, to issue said warrant in this: that said warrant is not based upon any grounds upon which the said Secretary of Labor is authorized by law to issue such warrants.

XII.

That the said Four Hindus, and each of them, have [22] exhausted all of their rights and remedies before the Department of Labor; that the said warrant of deportation is final as to the judgment of said Department of Labor, and that there is no appeal therefrom provided by law; that unless a writ of habeas corpus issue out of this Court directed to the said Samuel W. Backus, Commissioner of Immigration as aforesaid, to whom the said warrant of deportation was directed, and in whose custody the bodies of the said Four Hindus are, the said Four Hindus, and each of them, will forthwith be deported from the United States to India.

WHEREFORE, your petitioner prays that a writ of habeas corpus be issued by this Honorable Court, commanding said Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, to have and to produce the bodies of the said Four Hindus before this Honorable Court, in its courtroom at the City and County of San Francisco, in the Northern

District of California, at the opening of court on a day certain, in order that the alleged cause of imprisonment and restraint of the said Four Hindus, and the illegality or legality thereof, may be inquired into, and in order that, in the case that the said imprisonment and restraint are unlawful and illegal, the said Four Hindus, and each of them, may be discharged from all custody and restraint; and that the said Four Hindus, and each of them, be admitted to just and reasonable bail pending all proceedings herein.

Dated this 10th day of December, A. D. 1913.

HENRY F. MARSHALL,

Petitioner.

HENRY F. MARSHALL,

Attorney for Four Hindus. [23]

State of California,

City and County of San Francisco,—ss.

Henry F. Marshall, being first duly sworn according to law, deposes and says:

That he is the petitioner named in the above and foregoing petition; that he has read the same and knows the contents thereof, and that the same is true of his own knowledge except as to those things which are therein stated upon his information and belief, and as to those things he believes it to be true.

HENRY F. MARSHALL,

(Duly Verified.) [24]

[Exhibit "A" to Petition for Writ of Habeas Corpus
—Warrant for Deportation.]

UNITED STATES OF AMERICA.

DEPARTMENT OF ~~COMMERCE AND~~ LABOR.
WASHINGTON.

No. 53,627/39-A—51—58—58-A

To Samuel W. Backus, Commissioner of Immigration,
Angel Island Station, San Francisco, California.

WHEREAS, from proofs submitted to me, after due hearing before Immigrant Inspector R. E. Peabody, held at Angel Island Station, San Francisco, Cal., I have become satisfied that the aliens KAHN SINGH and KEHER SINGH, who landed at the port of San Francisco., per SS "Nippon Maru," on
have

the 22d day of September, 1913, ~~has~~ been found in the United States in violation of the Act of Congress approved February 20, 1907, amended by the Act approved March 26, 1910, to wit:

That the said aliens are members of the excluded classes in that they were afflicted with uncinariasis, a dangerous contagious disease, at the time of their entry into the United States, and that they were at the time of such entry persons likely to become public charges, and may be deported in accordance therewith:

I, LOUIS F. POST, Acting Secretary of ~~Commerce and~~ Labor, by virtue of the power and authority vested in me by the laws of the United

States, do hereby command you to return the said aliens to India, the country whence they came, at the expense of the appropriation, "Expenses of Regulating Immigration, 1014." You are directed to purchase transportation for the aliens from San Francisco, Cal., to their home in India, at the lowest scheduled [25] steerage rate available, payable from the above-named appropriation.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 22d day of November, 1913.

(Sgd.) LOUIS F. POST,

Acting Secretary of ~~Commerce and~~ Labor.

MC. (COPY—HS—12/1/13.) [26]

WARRANT—DEPORTATION OF ALIEN.

UNITED STATES OF AMERICA.

DEPARTMENT OF ~~COMMERCE AND~~ LABOR.

WASHINGTON.

No. 53,627/39-A—51—58—58-A

To Samuel W. Backus, Commissioner of Immigration, Angel Island Station, San Francisco, California.

WHEREAS, from proofs submitted to me, after due hearing before Immigrant Inspector R. E. Peabody, held at Angel Island Station, San Francisco, Cal., I have become satisfied that the aliens MAN-GAL SINGH and NEVA SINGH, who landed at the port of San Francisco, Cal., per SS. "Nippon Maru,"
have

on the 22d day of September, 1913, ~~has~~ been found in the United States in violation of the Act of Congress

approved February 20, 1907, amended by the Act approved March 26, 1910, to wit:

That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States, and may be deported in accordance therewith:

I, LOUIS F. POST, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said aliens to India, the country whence they came, at the expense of the appropriation "Expenses of Regulating Immigration, 1914." You are directed to purchase transportation for the aliens from San Francisco, Cal., to their home in India, at the lowest scheduled steerage rate available, payable from the above-named appropriation.

For so doing, this shall be your sufficient warrant.
[27]

Witness my hand and seal this 22d day of November, 1913.

(Sgd.) LOUIS F. POST,

Acting Secretary of Commerce and Labor.

MC. (COPY—HS—12/1/13.) [28]

**[Exhibit "B" to Petition for Writ of Habeas Corpus
—Application for Warrant of Arrest.]**

Application for warrant of arrest under sections 20
and 21 of the Act of February 20, 1907.

U. S. DEPARTMENT OF LABOR.

IMMIGRATION SERVICE.

12924/4-2, 4-4 to 4-18,
4-20 to 23, inclusive.

(Place) San Francisco, California.

September 23, 1913.

Confirming telegram of even date:

The undersigned respectfully recommends that the Secretary of Labor issue his warrant for the arrest of Kahn Singh, Nika Singh, Ottam Singh, Portapa, Inder Singh, Harnam Singh, Sondara Singh, Karam Sing, Keher Singh, Joala Singh, Sunda Singh, Inder Singh, Mala Singh, Argen Singh, Hardut Singh, Bir Singh, Sarwan Singh, Mangal Singh, Neva Singh, Siroop Singh, Dhin Mohammed the alien named in the attached certificate, upon the following facts which the undersigned has carefully investigated, and which, to the best of his knowledge and belief, are true:

(1) (Here state fully facts which show alien to be unlawfully in the United States. Give sources of information, and, where possible, secure from informants and forward with this application duly verified affidavits setting forth the facts within the knowledge of the informants.)

That these aliens are laborers; that there is no

demand in this section for that class of labor; further that there is a decided prejudice among the people of this locality against this class of labor.

(2) The present location and occupation of above-named alien are as follows: Detained at Angel Island Station.

Pursuant to Rule 22 of the Immigration Regulations there is attached hereto and made a part hereof the certificate prescribed in subdivision 2 of said Rule, as to the landing or entry of said alien, duly signed by the immigration officer in charge at the port [29] through which said alien entered the United States.

(Signature) SAMUEL W. BACKUS,
(Official title) Commissioner.

REP/EL.

Copy. [30]

**[Exhibit "C"—to Petition for Writ of Habeas
Corpus—Warrant of Arrest.]**

UNITED STATES OF AMERICA.

DEPARTMENT OF COMMERCE AND LABOR.
WASHINGTON.

No. 53,627/58.

To Samuel W. Backus, Commissioner of Immigration, Angel Island Station, San Francisco, California, or to any Immigrant Inspector in the service of the United States.

WHEREAS, from evidence submitted to me, it appears that the alien KAHN SINGH, NIKA SINGH, OTTAM SINGH, PORTAPA, INDER SINGH, HARNAM SINGH, SONDARA SINGH,

KARAM SINGH, KEHER SINGH, JOALA SINGH, SUNDA SINGH, INDER SINGH, MALA SINGH, ARGEN SINGH, HARDUT SINGH, and BIR SINGH who landed at the port of San Francisco, Cal., per SS "Nippon Maru," on the 22d day of September, 1913, have been found in the United States in violation of the Act of Congress approved February 20, 1907, amended by the Act approved March 26, 1910, to wit:

That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States.

I, LOUIS F. POST, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said aliens and grant them a hearing to enable them to show cause why they should not be deported in conformity with law.

The expenses of detention hereunder, if necessary, are authorized, payable from the appropriation "Expenses of Regulating Immigration, 1914." Pending further proceedings, the aliens may be released from custody upon their own recognizance, provided you are [31] satisfied they will appear when wanted; otherwise only under bond in the sum of \$500 each.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 24th day of September, 1913.

(Sgd.) LOUIS F. POST,
Acting Secretary of Commerce and Labor. [32]

WARRANT—ARREST OF ALIEN.

UNITED STATES OF AMERICA.
DEPARTMENT OF COMMERCE AND LABOR.
WASHINGTON.

No. 53,627/58.

To Samuel W. Backus, Comissioner of Immigration,
Angel Island Station, San Francisco, California, or to any Immigrant Inspector in the service of the United States.

WHEREAS, from evidence submitted to me, it appears that the aliens SARWAN SINGH, MANGAL SINGH, NEVA SINGH, SIROOP SINGH, and DHIN MOHAMMED, who landed at the port of San Francisco, Cal., per SS. "Nippon Maru," on the 22d day of September, 1913, have been found in the United States in violation of the Act of Congress approved February 20, 1907, amended by the Act approved March 26, 1910, to wit:

That the said aliens are members of the excluded classes in that they were persons likely to become public charges at the time of their entry into the United States,

I, LOUIS F. POST, Acting Secretary of Commerce and Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said aliens and grant them a hearing to enable them

to show cause why they should not be deported in conformity with law.

The expenses of detention hereunder, if necessary, are authorized, payable from the appropriation "Expenses of Regulating Immigration, 1914." Pending further proceedings, the aliens may be released from custody upon their own recognizance, provided you are [33] satisfied they will appear when wanted; otherwise only under bond in the sum of \$500 each.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 24th day of September, 1913.

(Sgd.) LOUIS F. POST,

Acting Secretary of Commerce and Labor. [34]

**[Exhibit "D" to Petition for Writ of Habeas Corpus
—Testimony Taken Before Examining In-
spector of Immigration.]**

DEPARTMENT OF LABOR.
IMMIGRATION DIVISION.

Angel Island Station,

San Francisco, Cal., September 24, 1913.

Hearing in Case of KAHN SINGH, 12924/4-2,
Nippon Maru, 9/22/13, Under Arrest Under
Authority of Departmental Warrant of Sept.
24th.

Examining Inspector—R. E. PEABODY.

Interpreter—D. S. DADY BURJOR.

Stenographer—ELISE LONG.

[**Testimony of Kahn Singh.**]

Alien duly sworn:

Q. Do you understand the interpreter?

A. Yes.

Q. Are you willing to proceed with this examination, being satisfied that this interpreter will faithfully interpret the questions propounded and the answers thereto? A. Yes.

Q. What is your name?

A. Kahn Singh; 38 years old; widower; I have two children.

Q. Are you still a subject of Great Britain?

A. Yes.

Q. Did you arrive at this port on the SS. "Nippon Maru," Sept. 22, 1913? A. Yes.

Q. When did you leave your native land?

A. Seven months ago I left my country.

Q. Where did you go? A. I came to Shanghai.

Q. What were you doing in Shanghai?

A. I was peddling cloth in Shanghai.

Q. Why didn't you stay there?

A. Some of my countrymen told me that Manila was a better place and called me there, so I went over there.

Q. When did you go to Manila?

A. I stayed in Manila about one month and ten days. [35]

(Alien presents certificate Form 546, P. I., issued at the Port of Manila, July 24, 1913, indicating that the alien landed at that Port SS. "China," July 17, 1913.)

(Testimony of Kahn Singh.)

Q. What was your average income per month in Shanghai?

A. Some months 15 pesos, some months 20 (\$7.50 to \$10), deducting expenses, Shanghai currency.

Q. What did you do in Manila?

A. I was peddling cloth in Manila.

Q. What was your average income per month in Manila?

A. Deducting expenses, 30 pesos a month (\$15).

Q. Why didn't you stay in Manila?

A. All the people said, "Let us go to San Francisco, a better place," and I said, "Come along; we will go."

Q. How long after you landed in Manila did you make up your mind to come to the United States?

A. Seven or eight days after I arrived there.

Q. What do you intend to do in the United States?

A. I want to do farming work business in this country.

Q. Then you will go to work on a farm for wages?

A. Yes, if I get good employment I will do it, but I will not be a coolie.

Q. How much money did you have when you came to Philippine Islands? A. About 31 pounds.

Q. How much have you now?

A. (Exhibits \$63, gold.) I have no more with me.

Q. Have you any more anywhere?

A. I have my money in Shanghai.

Q. How much have you in Shanghai?

A. \$300, Shanghai currency.

(Testimony of Kahn Singh.)

Q. Have you any documentary evidence that you have any money on deposit in Shanghai?

A. No, I have no receipt of any letter or documentary evidence. [36].

Q. Are you a land owner in your native country?

A. I have my own land because my parents are dead.

Q. How much land have you?

A. About 500 rupees income from the land every year.

Q. Have you any documentary evidence to offer here to show that you are a land owner?

A. No, I have got none.

Q. At the time you landed in Manila were you examined for the existence of any dangerous, contagious disease?

A. Yes, they examined and passed me.

Q. At the time you embarked for the mainland were you examined?

A. Yes, I have my certificate with me.

(Presents certificate dated Aug. 9, 1913, signed by one W. M. Lemmon, to the effect that he has been examined and found free of hookworm.)

[Arraignment.]

September 25, 1913.

You are now informed that you are taken into custody in pursuance of instructions contained in Departmental telegraphic warrant dated September 24, 1913, in which it is alleged that you were a person likely to become a public charge at the time of your entry the Philippine Islands. This hearing

(Testimony of Kahn Singh.)

is given you for the purpose of affording you an opportunity to show cause, if any you have, as to why you should not be deported. You have a right to be represented by counsel, and both yourself and your counsel have a right to inspect this warrant and all evidence in connection with this case. Do you wish to be represented by counsel?

A. Yes, we all wish to be represented by counsel.

Q. Do you know who your attorney will be?

A. Mr. Marshall. [37]

Alien duly sworn:

Q. Were all the statements you made in your examination yesterday true? A. Yes.

Q. Do you wish to make any changes in your statements? A. No.

Q. Have you any reason to offer as to why you should not be deported?

A. If they did not want me to be admitted here why did they make me lose my money by giving me a passport.

I certify as to the correctness of the foregoing transcript.

ELISE LONG,
Stenographer. [38]

DEPARTMENT OF LABOR.
IMMIGRATION SERVICE.

Angel Island Station,

San Francisco, Cal., September 24, 1913.

Hearing in Case of KEHER SINGH, 12924/4-10,
"Nippon Maru," 9/22/13, Under Arrest Under
Authority of Departmental Warrant of Sept.
24th.

Examining Inspector—R. E. PEABODY.

Interpreter—D. S. DADY BURJOR.

Stenographer—ELISE LONG.

[Testimony of Keher Singh.]

Alien duly sworn:

Q. What is your name? A. Keher Singh.

Q. Do you understand the interpreter?

A. Yes.

Q. Are you willing to proceed with this examination, being satisfied that this interpreter will faithfully interpret the questions propounded and the answers thereto? A. Yes.

Q. How old are you? A. 21 years old; single.

Q. Are you still a subject of Great Britain?

A. Yes.

Q. When did you leave your native land?

A. I left my country 2 1/2 years ago.

Q. Did you arrive at this port September 22, 1913, on the "Nippon Maru"? A. Yes.

Q. Why did you go from your native land?

A. I was a farmer in my country; I went to Shanghai and was a watchman for one year in Shanghai; received \$20 wages per month, Shanghai currency.

(Testimony of Keher Singh.)

Q. Where did you go from Shanghai?

A. I went to Chung King in China as a watchman in the East India Company of New York.

Q. What wages did you receive there?

A. \$25 wages, Shanghai currency (\$12.50, gold).

[39]

Q. Why didn't you stay there?

A. I returned from Chung King back to Shanghai because the weather did not agree with me.

Q. Did you work in Shanghai again?

A. I could not get any work, so I went to Manila.

Q. When did you go to Manila?

A. About 7 months ago.

(Alien presents certificate Form 546, No. 28, dated port of Manila, April 21, 1913, which indicates that alien arrived at that port on the SS. "Siberia," February 6, 1913.

Q. What have you been doing in Manila?

A. First two months I was peddling cloths, and then I was employed again as a watchman.

Q. What wages did you receive?

A. 35 pesos a month (17.50 a month).

Q. Why didn't you stay in Manila?

A. I lost my employment and I did not see any prospects of doing business, so I left.

Q. Then you left Manila simply because you could not secure other employment? A. Yes.

Q. How much money did you have when you went to Manila?

A. 200 pesos, Manila currency (\$100).

Q. How much money have you now?

(Testimony of Keher Singh.)

A. \$50 (Exhibits same).

Q. Is that all you have?

A. Yes; that is all I have here.

Q. Have you any more anywhere?

A. I can get it from Manila from my cousins.

Q. Have your cousins any money that belongs to you? A. Not my own.

Q. Have you ever been in the United States before? A. No.

Q. What do you intend to do here?

A. I will do business or do farming.

Q. In other words, you will do whatever work is offered you?

A. First, if I can get somebody to employ me for farming I will do [40] it, and then I will get me own.

Q. Have you any relatives in the United States?

A. Yes, I have a cousin; his name is Dal Singh; I have no address with me of that man.

Q. Do you own any land in your native land, or is it a family estate?

A. It is held in the family, but partly belongs to me; my father being alive I cannot say it is my own.

Q. Have you any money of your own in your native land?

A. I have not got my money; I cannot get it from my father.

Q. At the time of your entrance to the Philippine Islands were you examined for the existence of any dangerous contagious disease?

A. He examined me and passed me.

(Testimony of Keher Singh.)

Q. At the time you embarked for the United States were you examined for the existence of any dangerous contagious disease?

A. Yes, they examined me.

Examiner's Note: The medical examiner of aliens at this station has certified this alien to be suffering from uncinariasis, a dangerous, contagious disease.

September 25, 1913.

Arraignment.

You are now informed that you are taken into custody in pursuance of instruction contained in Departmental telegraphic warrant dated September 24, 1913, in which it is alleged that you were a person likely to become a public charge at the time of your entry to the Philippine Islands. This hearing is given you for the purpose of affording you an opportunity to show cause, if any you [41] have, as to why you should not be deported. You have a right to be represented by counsel, and both yourself and your counsel have a right to inspect this warrant and all evidence in connection with this case. Do you wish to be represented by counsel?

A. Yes, we all wish to be represented by counsel.

Q. Do you know who your attorney will be?

A. Mr. Marshall.

Alien duly sworn:

Q. Were the statements you made in your examination yesterday the truth?

A. Everything I said yesterday is the truth; I have nothing to change.

(Testimony of Keher Singh.)

Q. Have you any reason to offer why you should not be deported?

A. What I want to say is that they gave me the passport in Manila, and now I lose all my money by coming here; if they had not given me the passport I would not have come here.

I certify as to the correctness of the foregoing transcript.

ELISE LONG,
Stenographer. [42]

DEPARTMENT OF LABOR.
IMMIGRATION SERVICE.

Angel Island Station,

San Francisco, Cal., September 24, 1913.

Hearing in case of MANGAL SINGH, 12924/4-20,

"Nippon Maru," 9/22/13, Under Arrest Under

Authority of Department Warrant of Sept. 24th.

Examining Inspector—R. E. PEABODY.

Interpreter—D. S. DADY BURJOR.

Stenographer—ELISE LONG.

[**Testimony of Mangal Singh.**]

Alien duly sworn:

Q. What is your name? A. Mangal Singh.

Q. Do you understand the interpreter?

A. Yes.

Q. Are you willing to proceed with this examination, being satisfied that this interpreter will faithfully interpret the questions propounded and the answers thereto? A. Yes.

Q. How old are you? A. 22; single.

(Testimony of Mangal Singh.)

Q. Are you a British subject? A. Yes.

Q. Did you arrive at this port on the SS. "Nippon Maru" from Manila September 22, 1913? A. Yes.

Q. What is your occupation?

A. Farmer in my country; my land belongs to my family.

Q. When did you leave your native land?

A. 2 1/2 years go.

Q. Where did you go?

A. First came to Malay Peninsula and from there went to Hong Kong and from there went to Manila.

Q. How long did you stay in Hong Kong?

A. Stayed for one month in Hong Kong; had no work in the Malay Peninsula or Hong Kong; went straight to Manila. I was employed as a watchman in Manila.

Q. How long were you in Manila?

A. 16 months. [43]

(Alien presents certificate 546, No. 344, dated Manila, August 11, 1913, indicating that he landed in Manila from the SS. "Zafiro," May 13, 1912.

Q. Have you been employed steadily as a watchman in Manila up to the time you started for this country?

A. About 7 or 8 months I was employed as a watchman, and the rest of the time I was peddling cloth.

Q. How much money did you make in Manila as a watchman?

A. 50 pesos per month (\$25, gold).

Q. What was your average income as a peddler?

A. Nothing certain about it; sometimes I made

(Testimony of Mangal Singh.)

after expenses, 15 or 20 pesos; sometimes I made absolutely nothing; sometimes I made 5 or 10.

Q. Why didn't you stay in Manila?

A. I heard that this country was a very fine country and very good chances for people like me, and I gave up my business there and came here.

Q. Is it not a fact that your business was not paying you in Manila? A. Yes.

Q. Then as a matter of fact you left Manila because you were not making sufficient money for your needs? A. Yes.

Q. How much money did you have when you came to Manila? A. \$50, gold.

Q. How much have you got now?

A. \$60, gold (exhibits same).

Q. Is this all the money you have? A. Yes.

Q. What do you intend to do in the United States?

A. I want to do business.

Q. What kind of business?

A. Whatever I find preferable I will do business in.

Q. In other words you expect to follow the occupation of a peddler here? [44]

A. Yes.

Q. If you do not succeed in finding a suitable business opening what will you do then?

A. I have got my brother called Sumun Singh living in Seattle.

Q. Whereabouts in Seattle?

A. He has been a long time in Seattle and is well

(Testimony of Mangal Singh.)

known; I don't know where he is, but I can find out from my temple.

Q. What is he doing in Seattle?

A. I don't know.

Q. Is it not a fact that you will go to work for wages in the event that you do not succeed as a peddler?

A. If I get any employment I will do it.

Q. Were you examined for the existence of any dangerous or contagious disease at the time you landed at Manila? A. Yes.

Q. Were you examined at the time you left Manila to come to the mainland of the United States?

A. Yes.

Examiner's Note.—Medical examiner of aliens at this port has certified this alien to be suffering from uncinariasis, a dangerous, contagious disease.

September 25, 1913.

Arraignment.

You are now informed that you are taken in custody in pursuance of instructions contained in Departmental telegraphic warrant dated September, 24, 1913, in which it is alleged that you were a person likely to become a public charge at the time of your entry to the Philippine Islands. This hearing is given you for the purpose of affording you an opportunity to show cause, if any you have, as to why you should not be deported. You have a right to be represented by counsel, and both yourself and your [45] counsel have a right to inspect this warrant

(Testimony of Mangal Singh.)

and all evidence in connection with this case, do you wish to be represented by counsel?

A. Yes, we all wish to be represented by counsel.

Q. Do you know who your attorney will be?

A. Mr. Marshall.

Alien duly sworn:

Q. Were the statements you made in your previous examination the truth? A. Yes, no lie.

Q. Do you wish to change your statement in any manner? A. No, I have nothing more to say.

Q. Have you any reason to offer why you should not be deported? A. I will speak to my lawyer.

I certify as to the correctness of the foregoing transcript.

ELISE LONG,
Stenographer. [46]

DEPARTMENT OF LABOR.
IMMIGRATION SERVICE.

Angel Island Station,

San Francisco, Cal., September 24, 1913.

Hearing in Case of NEVA SINGH, 12924/4-21,
"Nippon Maru," 9/22/13, Under Arrest Under
Authority of Departmental Warrant of Sept.
24th.

Examining Inspector—R. E. PEABODY.

Interpreter—D. S. DADY BURJOR.

Stenographer—ELISE LONG.

[Testimony of Neva Singh.]

Alien duly sworn:

Q. Do you understand the interpreter?

(Testimony of Neva Singh.)

A. Yes.

Q. Are you willing to proceed with this examination, being satisfied that this interpreter will faithfully interpret the questions propounded and the answers thereto? A. Yes.

Q. What is your name?

A. Neva Singh; 28 years old; not married.

Q. Are you still a subject of Great Britain?

A. Yes.

Q. Did you arrive at this port on the SS Nippon Maru, September 22, 1913? A. Yes.

Q. When did you leave your country?

A. Three years ago.

Q. Where did you go?

A. Singapore and was in business there peddling cloth.

Q. How long did you stay in Singapore?

A. Two years and then I went to Manila; I was also in business in Manila peddling cloth.

Q. Did you do any other work in Manila but peddle? A. No, none.

Q. When did you go to Manila?

A. I stayed in Manila for a year. (Alien presents certificate Form 546, P. I., No. 343, dated August 11, 1913, at Manila, showing that the alien arrived at that port per SS. "C. de Eizaguirre," Sept. 15, 1912. [47])

Q. Why didn't you stay in Manila?

A. I did my business there for one year and having a higher aspiration, wanting to get some more money I came here.

(Testimony of Neva Singh.)

Q. What was your average income a month in Manila?

A. Average taking out all expenses I could earn 20, 22 or 25 pesos, Manila currency, a month (\$10 to 12.50).

Q. Then the real reason that you left Manila to come to this country was because you could not make sufficient funds to take care of your needs?

A. Yes, that is a fact.

Q. What do you intend to do in the United States?

A. The same kind of business I did there.

Q. What do you intend to do in the event you do not succeed in getting business?

A. If I cannot get along I will have to go back.

Q. Is it not a fact that you will take whatever work will be offered you here?

A. No, I will not take any employment or work; I can get money from this firm where I deposited money; it is a very big firm; I have 900 pesos deposited with Dhunamall Chellaram, Esquire, Indian merchant, at Zamboanga, P. I., P. O. Box 1191.

Q. Have you any documentary evidence that you have any money with this man?

A. No, I have no receipt, but I can send him a telegram and get my money now if you want.

Q. How much money have you? (Exhibits \$50.)

Q. Are you a land owner in your country?

A. Yes, I have my land but my father is alive, which means it belongs to the family.

Q. Have you any money in your own country?

(Testimony of Neva Singh.)

A. All the money is with my father; I can get it.
[48]

Q. You have no money that belongs to you individually in your own country?

A. All my money is supposed to belong to my father until he dies.

Q. How do you expect to do business on \$50?

A. I have got my brother in California; he is named Jai Singh.

Q. Whereabouts in California?

A. I don't know his address; I will go to the temple and try to find out.

Q. What does your brother do here?

A. He does the business.

Q. What kind of business?

A. He is selling; he is peddling.

Q. Do I understand you then to say if you do not find your brother and do not succeed in doing business that you will send for money and go back to your country?

A. Yes, I will get my money from this firm where I deposited it and get out.

Q. Then under no circumstances would you take a position in this country or accept employment?

A. No, I will do nothing.

Q. At the time of your entry to the Philippine Islands were you examined for the existence of any dangerous, contagious disease?

A. Yes, I was examined and passed.

Q. At the time that you embarked for the United States were you examined?

(Testimony of Neva Singh.)

A. Yes, I brought my certificate too.

Examiner's Note: Medical examiner of aliens at this port has certified this alien to be suffering from uncinariasis, a dangerous, contagious disease.

September 25, 1913.

Arraignment.

You are now informed that you are taken into custody in pursuance of instructions contained in Departmental telegraphic warrant dated September 24, 1913, in which it is alleged that you were [49] a person likely to become a public charge at the time of your entry to the Philippine Islands. This hearing is given you for the purpose of affording you an opportunity to show cause, if any you have, as to why you should not be deported. You have a right to be represented by counsel, and both yourself and your counsel have a right to inspect this warrant and all evidence in connection with this case. Do you wish to be represented by counsel?

A. Yes, we all wish to be represented by counsel.

Q. Do you know who your attorney will be?

A. Mr. Marshall.

Alien duly sworn.

Q. Were all the statements you made in your examination yesterday true? A. Yes.

Q. Do you wish to change your statement in any way? A. No.

Q. Have you any reason to offer as to why you should not be deported?

A. I don't want to change anything in what I said yesterday. I want to know why I was not admitted;

I am a merchant—businessman; I stayed in Manila for one year; if I stayed there why can't I stay here?

I certify as to the correctness of the foregoing transcript.

ELISE LONG,
Stenographer. [50]

**[Exhibit "E" to Petition for Writ of Habeas Corpus
—Affidavit of Khan Singh.]**

(Entitled, Before Department of Labor, in re
KHAN SINGH.)

State of California,

City and County of San Francisco,—ss.

KHAN SINGH, being first duly sworn according to law, deposes and says:

I am the alien above named, detained upon Department warrant for deportation as above recited.

I am 38 years of age and up to seven months ago have always been engaged in farming my own land in India. I own an interest in 150 ghumars of land situated in one tract and having upon it some seven residence houses. This land is worth 400 Rupees per ghumar and the houses are valuable in addition. This land is situated in the village of Panjeward in the District of Amritsar. From my interest in this land I receive an income of 500 Rupees per year. in my absence this property is managed by my two brothers who reside thereon.

I have another brother, Jagat Singh, who is Police Officer #13 in Shanghai. He holds 300 Dollars in Shanghai money with him in trust for me, which he will send to me if I write for it.

I left my home village about seven months ago

and went to Shanghai. From there I went to Manila and was in Manila one month and 12 days, when I embarked for San Francisco.

In Shanghai I was examined by the Harvard Medical School of China as to my health, and was given a certificate dated Shanghai, July 7th, 1913, signed by Walter S. Hiltner, which stated that I had no ova of "Uncinarisis." [51]

In Manila I was examined by Dr. Lemmen who issued a certificate dated Manila, P. I., August 9th, 1913, certifying that I have been examined by him and that he did not find any evidence of "Hookworm" or "Amoeba."

If I have this disease, and I am informed that the Immigration Doctor says that I have this trouble, I have acquired it since I left Shanghai and arrived in Manila.

I am going now to my friend, H. Santokh Singh, at Orwood Station, Woodward Postoffice, California, who has put up the money with the bonding company for my release.

This money man comes from the village near the village where I lived. An aunt of mine was married into his village and that is how we come to be acquainted.

KHAN SINGH.

(Duly verified.) [52]

(Entitled, Before Department of Labor, in re
KHAN SINGH.)

Affidavit of H. Santokh Singh.

State of California,
City and County of San Francisco,—ss.

H. Santokh Singh, being first duly sworn according to law, deposes and says:

I know the alien above named and I know that he owns land as stated in his affidavit which I have heard read.

I have been in the United States for four years. I hold under lease 200 acres of land at Orwood Station which land is planted in potatoes. There are from 15 to 20 Hindu men working for me on this land, and if Khan Singh shall be released and wants work with me I will give him permanent employment, at \$2.25 a day and found.

I have \$700 in cash now and am just selling my potato crop and in a few weeks will have a great deal more money, but I have put up \$500 already for the bond of this man.

H. SANTOKH SINGH.

(Duly verified.) [53]

[Letter, October 11, 1913, Henry F. Marshall to
Commissioner of Immigration.]

October 11, 1913.

Commissioner of Immigration,
Angel Island, Cal.

Sir: Attached to the original of this letter please find three certificates relative to the physical condition of Khan Singh, ex SS. "Nippon Maru," Sep-

tember 22, 1913 (4-2), held under Department Warrant for deportation dated September 24, 1913, No. 12,924, and certified for "Hookworm," reading as follows:

Stockton, Cal., Oct. 3, 1913.

(To whom it may concern.)

This is to certify that Khan Singh is under my care suffering from intestinal trouble.

Signed—C. L. SIX, MD.

Dameron Hospital, Laboratory of Dr. Linwood Dozier.

Date 10/7/13 Hindu Man.

Material to be examined. Faeces.

Report. Taenia Saginata ova (beef worm).

Stool clay colored—meat and vegetable remnants—very poor handling of food—partial biliary obstruction.

No hookworm seen.

Diagnosis. Tapeworm ova, Bile duct obstruction (partial).

LINWOOD DOZIER, M. D.

Stockton, Cal., Oct. 8, 1913.

(To whom it may concern.)

This is to certify that I have treated Kahn Singh for tape-worm successfully. The same has been removed.

Signed—C. L. SIX, M. D.

When this alien was released on bond I insisted, as is my custom in every case where disease is certified, that the alien take [54] treatment for its cure. In view of the foregoing, I request that he be

granted a re-examination by the Surgeon at Angel Island.

Very respectfully,

HENRY F. MARSHALL,

Attorney for Alien. [55]

OFFICE COPY.

Hook.

(Entitled, Before Department of Labor, in re
KEHAR SINGH.)

Affidavit of Kehar Singh.

State of California,

City and County of San Francisco,—ss.

Kehar Singh, being first duly sworn according to law, deposes and says:

I am the alien above named, held under warrant for deportation as above recited.

I have been for one year in Shanghai, and for eight months in Chun Kien, China, and for several months in Manila. I speak some English.

I have a brother in Manila who holds in trust \$300 in Gold for me. His name is Chanam Singh, and he works for the W. S. Stevenson Co., Limited, at #227 Concepcion St., Manila. This money he will send to me if I write him.

I have another brother in California. His name is Dal Singh, who works in Exeter, Tulare County, on the Merryman Ranch. To him I will go when I am landed here.

I present herewith a letter of recommendation on the letter head of Francisco Reyes, #364 Sulucan, Sampalor, Manila, dated August 2d, 1913, and signed

Francisco Reyes. This letter states that I have been employed in the service of the College and Seminary of Santa Mesa, Mandaleyan, for three months and proved to be faithful and a very good night watch.

I also present the customary certificates by the doctors, Dr. Lemmen at Manila and the Pacific Mail Certificate stating that I am free from "Hookworm" and "Amoeba" and also am free from "Trachoma."

KEHAR SINGH.

(Duly verified.) [56]

OFFICE COPY.

Hook.

(Entitled, Before Department of Labor, in re
MANGAL SINGH.)

Affidavit of Somond Singh.

State of California,

City and County of San Francisco,—ss.

SOMOND SINGH, being first duly sworn according to law, deposes and says:

I am the own blood brother of Mangal Singh, the alien above named, held under Department Warrant for deportation.

I have lived in the United States for nearly six years in all. I was here for a term of five years and then went back to India where I remained for two years and afterwards returned to the United States about six months ago.

When I left the United States to go to India I left behind me loans to one of my countrymen in the sum of \$900. This money upon my return I recovered from him and I have it now in my possession, to-

gether with other moneys which I have saved since my return.

I have placed \$500 with the bonding company to secure the release of my brother upon bond pending the determination of this matter. I have also \$500 in money with me, and I will afford to my brother such assistance as may be necessary, either starting him out in some little business, or if necessary in aiding him to be treated by a doctor for the disease which the Immigration Doctor says he has.

SOMOND SINGH.

(Duly verified.) [57]

OFFICE COPY.

(Entitled, Before Department of Labor, in re
MANGAL SINGH.)

Affidavit of Mangal Singh.

State of California,

City and County of San Francisco,—ss.

MANGAL SINGH, being first duly sworn according to law, deposes and says:

I am informed that in my examination before the Inspector I was made to say that I left Manila to come to San Francisco because I could not make enough money for my needs. This statement is not correct. I made money in the Philippines during the period that I was there and saved sufficient to pay my expenses to San Francisco and had more money when I reached San Francisco than when I first reached Manila. What I did or intended to say to the Inspector was that at some periods I did not make much above my expenses and at other periods I made more than my expenses.

I was examined for a dangerous, contagious disease by the doctor when I first went to Manila in 1912; I was also examined by the surgeon for that disease when I left Manila to come to the United States. I present herewith a Certificate from the Christian Hospital, Philippines Mission, Manila, dated August 16th, 1913, and signed by Dr. W. S. Lemmen, which certifies that I was at that date free from evidences of "Hookworm" or "Amoeba" and also free from "Trachoma."

I am informed that the Immigration Doctor says that I have "Hookworm," but if I have it I have acquired it since I was admitted to the United States, and I shall at once go to a doctor and have him treat me for that disease. [58]

My brother is here with me now. He has come down from the State of Oregon to await the outcome of this hearing. I shall be with him in Hope, California, until such time as the decision of the Department is announced.

MANGAL SINGH

(Duly verified.) [59]

OFFICE COPY.

Hook.

(Entitled, Before Department of Labor, in Re
NEVA SINGH.)

Affidavit of Neva Singh.

State of California,
City and County of San Francisco.—ss.

Neva Singh, being first duly sworn according to law, deposes and says:

I am the alien above named held under Department Warrant as above recited.

I have heard from my brother, Jai Singh, since I have been at Angel Island. He lives at Orwood, California, and has sent a friend to San Francisco to deposit the money necessary for my release on bond pending the decision in this case. He did not come himself because this friend speaks much better English and is entrusted with the management of the business of many of my countrymen in that neighborhood.

I am informed that the Immigration Doctor says that I have "Hookworm." I was examined for that disease when I reached Manila in December, 1912, and was passed by the Immigration Doctor there. I was also examined and hold a certificate which I exhibited to my attorney as he dictates affidavit signed by Dr. Lemmen at Manila. This is on the Pacific Mail Steamship Company's usual health form and certifies that at the time it was issued, namely upon 15th, 1913, I was free from that disease. If I have that trouble I undoubtedly acquired it while in the United States in Manila. If permitted to land, and also while I am out on bond, I shall go immediately to an American doctor and be treated for this trouble until I shall be cured.

My brother, Jai Singh, has been in the United States [60] for nearly 12 years. He is a prosperous resident of the State of California for several years past.

NEVA SINGH.

(Duly Verified.)

[Endorsed]: Filed Dec. 10, 1913. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [61]

(Style of Court, Title of Cause No. 15,503.)

Order to Show Cause.

Upon consideration of the petition herein it is ordered that the Respondent, the Commissioner of Immigration at the Port of San Francisco, show cause in this Court, at the Courtroom thereof, in the Postoffice Building, in the City and County of San Francisco, at 10 o'clock A. M. on Monday, the 15th day of December, 1913, why the Writ of Habeas Corpus should not issue as prayed for by petitioner.

Let a copy of this order be served forthwith upon said respondent and upon the United States Attorney for this District, and meanwhile let deportation be stayed.

Done in open Court this 10 day of December, A. D. 1913.

M. T. DOOLING,

Judge of the United States District Court.

Return of Service of Writ.

United States of America,
Northern District of California,—ss.

I hereby certify and return that I served the annexed Order to Show Cause on the therein named Commissioner of Immigration of the Port of San Francisco, by handing to and leaving an attested copy thereof with Samuel W. Backus, said Commissioner of Immigration, personally, at Angel Island

in said District, on the 11th [62] day of December, A. D. 1913.

C. T. ELLIOTT,
U. S. Marshal.
By Elmo Warner,
Office Deputy.

[Endorsed]: Filed Dec. 10, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [63]

(Style of Court, Title of Cause No. 15,503.)

Return to Order to Show Cause.

Now comes Samuel W. Backus, Commissioner of Immigration at the port of San Francisco, by Charles F. Mayer, Immigrant Inspector, and in return to the Order to Show Cause issued by said Court on the petition of Henry F. Marshall for a writ of Habeas Corpus, respectfully shows that your respondent holds Khan Singh, Keher Singh, Mangal Singh and Neva Singh, all of whom are aliens under orders of deportation signed and issued by the Honorable Acting Secretary of Labor, dated November 2, 1912, after a due and proper consideration of the record in the case of each of said aliens by the said Acting Secretary of Labor.

I.

Your respondent admits each and every allegation in paragraph I of said petition.

II.

And your respondent admits each and every allegation in paragraph II of said petition.

III.

And your respondent admits each and every allegation in paragraph III of said petition; but denies that said four aliens names in the petition are bona fide domiciled residents, inhabitants and denizens of the United States and denies further that said aliens were admitted after due inspection by the Immigration officials at the port of Manila.

IV.

And your respondent admits each and every allegation in paragraph IV of said petition. [64]

V.

And your respondent admits each and every allegation in paragraph V of said petition..

VI.

And your respondent admits each and every allegation in paragraph VI, except that your respondent denies that said alien was unlawfully imprisoned, detained and confined of his liberty, and further deny that said alien was deprived of any of the privileges or immunities of denizens of the United States, but that he was subjected to the same rules, regulations and laws of the Immigration Department to which any alien under like conditions and circumstances might be subjected.

VII.

And your respondent admits each and every allegation in paragraph VII of said petition.

VIII.

And your respondent admits each and every allegation in paragraph VIII of said petition, except that your respondent denies the allegation on page

4 of said paragraph VIII that the alien answered to the best of his ability all the questions which were propounded to him, and alleges that the answers were not entirely bona fide and true in every instance.

IX.

And your respondent denies that the said four aliens were denied a fair hearing in good faith such as is guaranteed by law.

1. Your respondent denies the allegation in subdivision 1 of paragraph IX that the record of the above mentioned examinations discloses on its face that the said four aliens were not informed of the charges against him until after the conclusion [65] of the examination and further denying, your respondent alleges that said four aliens were informed of the charges against them and their rights and privileges at the end of the preliminary examinations and that said procedure was entirely in conformance with Rule 22, subdivision 4b, of the Immigration Laws.

2. And your respondent denies the allegations in subdivision 2 of paragraph IX, and alleges that the immigrant inspector made their decision from the testimony produced and from their experience with aliens coming into this country under like circumstances and conditions, and further alleges that subsequent or further hearing on behalf of the said aliens might have been had upon a reasonable request to the immigration authorities.

3. And your respondent admits the allegations in subdivision 3 of paragraph IX and alleges further

that the examinations of said four aliens were entirely in accordance with Rule 22, subdivision 4b of the Immigration Laws.

4. Anr your respondent denies the allegation in subdivision 4 of paragraph IX that said Samuel W. Backus, Commissioner of Immigration, detailed an immigrant inspector to canvass the people of the State of California for evidence to support the charges made against said four aliens, and alleges further that certain affidavits and newspaper clippings were made a part of the record of the cases in the matter of the petition on behalf of Baghat Singh and twenty-one other aliens, but that said affidavits and newspaper clippings were not an actual part of the record of the said four aliens in this case, but were merely included by reference, and the attorney representing said four aliens was allowed to peruse and examine said documents. [66]

5. And your respondent denies the allegations in subdivision 5 of paragraph IX and alleges that the said affidavits and newspaper clippings are a part of the record in the case of Baghat Singh and twenty-one aliens whose case is now on appeal to the Circuit Court of Appeals, Ninth Circuit.

6. And your respondent admits the allegation in subdivision 6 of paragraph IX, except that respondent denies that said record was a "so-called" record, but that it is an actual, complete and true record, and your respondent alleges further that the document described as "Views of the Immigration Officer in Charge" is withheld because it is a confidential communication or letter of transmission

which accompanied the record when the said record was sent to the Secretary of Labor.

X.

And your respondent denies that the Secretary of Labor and said Commissioner of Immigration have refused and denied the said four aliens a fair hearing in good faith.

1. And your respondent admits the allegations in subdivision 1 of paragraph X of said petition.

2. And your respondent denies the allegations in subdivision 2 of paragraph X of said petition.

3. And your respondent denies the allegations in subdivision 3 of paragraph X of said petition, and alleges further that said ex parte affidavits, interviews, letters and newspaper clippings were never inserted in the record of said four aliens, but were merely referred to to show conditions of Labor in this country and the prejudice against the employment of aliens in the condition of the said four aliens. And your respondent alleges further that there was competent evidence in the cases of the said four aliens, as shown by the discussion and findings of the [67] Secretary of Labor upon his ordering the warrant of deportation.

The Acting Commissioner-General of Immigration reviews the testimony and evidence in the cases of the said four aliens with comments and recommendations, which were forwarded to the Secretary of Labor for his decision. The comments and recommendations are as follows:

KAHN SINGH testifies that he is 38 years old; a subject of Great Britain; widower, with two child-

ren; left India 7 months ago; went thence to Shanghai where he was a peddler of cloth; thence to Manila where he stayed about 40 days (presents certificate showing he was landed at Manila July 17, 1913); earned \$7.50 to \$10 a month clear in Shanghai; peddled cloth in Manila and earned \$15 per month clear, but remained there only a short time; wishes to "do farming work business" in this country, but "I will not be a coolie"; had about \$155 when he entered Philippines, and has \$63 now; has no more money with him but has \$150 in Shanghai; has no receipt, letter or other documentary evidence to support last statement; has land in India from which his income is 500 rupees per year (a rupee is 32¢) but has no documentary evidence to support this claim.

This alien is afflicted with uncinariasis (hookworm), which is a dangerous contagious disease.

AN AFFIDAVIT subsequently presented by this alien is to the effect that he owns a considerable estate in India which is being managed by his two brothers and which produces him 500 rupees annually; that he is going to a friend, H. Santakh Singh, Orwood Station, Cal., that he was examined for hookworm in China and also in the Philippine Islands, but was found free from that disease, but no certificate or other documentary evidence in support [68] of this assertion is furnished. This alleged friend submits an affidavit in which he claims to have a leasehold of 200 acres planted in potatoes and offers the alien employment at \$2.25 a day and found"; that affiant has \$700 in cash and will have

more when his potato crop is sold. Affiant also substantiates alien's claim regarding ownership of land.

COMMENT: The Bureau is inclined seriously to doubt the claim of Kahn Singh regarding the ownership of property. The definite offer of employment by a Hindu where alien would work with other Hindus is a material piece of evidence favorable to him; but is not sufficient to overcome the unfavorable features of the case. Hookworm is a debilitating disease which is very enervating in addition to being classified under the law and regulation as "dangerous contagious." A very large per cent (estimated at from 60% to 80%) of the inhabitants of India are afflicted with hookworm (Report of the Rockefeller Sanitary Commission on Hookworm Infection in Foreign Countries, pages 9 and 59). As the disease is usually contracted by coming into contact with damp soil that is impregnated with the parasite (Id., see particularly pages 14 and 60), as this man was a farmer in India, making him particularly liable to contract the disease there (Id., p. 60), has been absent therefrom for only a short period of time, and has been engaged in pursuits in which he would not be as apt to contract the disease as in farming, no other conclusion seems reasonable than that he was suffering with hookworm at the time of his admission at Manila, at which port no examinations for said disease were then being conducted (as has been ascertained by inquiry of the United States Public Health Bureau).

RECOMMENDATION: That warrant of deportation issue on [69] ground alleged in the warrant

of arrest and on the additional ground that the alien was a member of the excluded classes at the time of entry in that he was then afflicted with a dangerous contagious disease.

KEHER SINGH testifies that he is a British subject; 21 years old; single, left India 21½ years ago; was a farmer in India; went to Shanghai and became a watchman at \$10 per month; then to Chung King, China, as watchman at \$12.50; the climate not agreeing with him he returned to Shanghai and not being able to obtain work there, went to Manila (presents certificate showing landing in Manila February 6, 1913); peddled cloth for two months in Philippine Islands, and then became a watchman at \$17.50 per month; lost his job and not being able to secure another left Manila; had \$100 when landed at Manila, now has \$50; can borrow more money from cousins in Manila; desires to do farming work here; has a cousin here but does not know his address; his family owns land in India; has no money of his own in India and could not get any from his father.

This man is certified for hookworm.

AFFIDAVIT subscribed by Keher is to the effect that he has a brother in Manila who has \$300 belonging to him which will be sent if alien writes for it; has another brother in California to whom he will go if landed; holds a letter of recommendation from one Reyes, of Manila, showing that he was employed for a college there for three months as night watchman and was faithful.

COMMENT: It will be noted that the claim of the ownership of \$300 made in the affidavit is not borne

out by the alien's oral testimony. The affidavit is not believed. Clearly the [70] general evidence regarding aliens of this kind and the economic and labor conditions are not overcome by the evidence that relates particularly to this case. Moreover, the man is suffering with hookworm and, for the same reasons given in discussing the case of Kahn Singh, *supra*, it is believed the disease existed when he landed at Manila.

RECOMMENDATION: That warrant of deportation issue on the ground stated in the warrant of arrest and on the additional ground that he was afflicted with a dangerous contagious disease at the time of entry.

MANGAL SINGH testifies that he is a British subject; 22 years old; single; was a farmer in India which he left 21½ years ago, going to Malay Peninsula, thence to Hongkong, and thence to Manila; stayed one month in Hongkong; had no work in either Malay Peninsula or Hongkong; was employed as a watchman in Manila for 7 or 8 months and then in peddling cloth (presents certificate showing landing at Manila, May 13, 1912); received \$25 per month as a watchman, and as a peddler made from nothing to \$10 per month; left Manila because he was not doing well there; had \$50 when landed at Manila, and now has \$60, which is all the money he has; expects to be a peddler here; has a brother somewhere in Seattle, but does not know his exact address or what he is doing; will do any kind of work he can get.

This alien is certified for hookworm.

AFFIDAVIT subsequently submitted by Mangal is to the effect that he did not intend to state in his oral testimony that he left Manila because he could not get along there; that if he had hookworm he must have acquired it subsequent to landing at Manila as he holds a certificate from the doctor of the Christian [71] Hospital at Manila, dated August 16th, to the effect that he was then free from evidence of hookworm, etc.

Another AFFIDAVIT by one Somond, who claims to be the blood brother of Mangal, is to the effect that he was in the United States for 5 years, returned to India, remained there 2 years, and came back here 6 months ago; has \$1,000, \$500 of which he put up as security for his brother; and will afford his brother such assistance as may be necessary.

COMMENT: It is possible but not probable on the facts and circumstances that this alien contracted hookworm after landing in Manila, the certificate does not show and he has not testified that he was subjected to the course of treatment that is necessary to demonstrate the presence in the intestinal tract of hookworm. Aside, however, from this phase of the case, it is not thought that the particular evidence is sufficient to overcome the general; in other words, it is believed that this alien was at the time of his landing in the Philippines likely to become a public charge if he proceeded to the mainland.

RECOMMENDATION: That warrant of deportation issue on the ground stated in the warrant of arrest.

NEVA SINGH testifies that he is a British sub-

ject; 28 years old; single; left India 3 years ago; was in Singapore 2 years engaged in peddling cloth; then went to Manila where he was also a peddler for one year (presents certificate showing landing at Manila September 15, 1912); made from \$10 to \$12.50 per month in Manila; left there because his income was not sufficient to support him; intends to do peddling here and will do any laboring work here; has \$450 deposited with an Indian merchant at Zambounga, but has no documentary evidence to support this; has \$50; has no [72] money in his native country as everything he has is supposed to belong to his father until the latter dies; his family owns land in India; has a brother in California, but does not know his address; brother is a peddler; if not able to locate brother and go into business will leave the mainland.

This alien is certified for bookworm.

AFFIDAVIT subsequently submitted by Neva is to the effect that he has heard from his brother who lives at Orwood and has sent a friend to San Francisco to deposit enough money to obtain his release on bond; that he has a certificate from the steamship doctor to the effect that he was free from hookworm when he left Manila; that his brother has been in the United States for nearly 12 years and is prosperous.

COMMENT: On this record the particular evidence regarding Neva is not regarded as sufficient to overcome the general evidence hereinbefore described.

RECOMMENDATION: That warrant issue for the deportation of the alien on the ground stated in

the warrant of arrest.

Acting Commissioner-General F. H. Larned, in submitting the foregoing comments and recommendations on the respective cases, appended thereto the following statement of opinion of his Department:

“The Department’s attention is directed to briefs presented by counsel. Local counsel representing the case before the Bureau and Department have been afforded full opportunity to review all of the papers to which reference has been made in this memorandum. He also has been assured that, in accordance with the regular custom, he will be permitted to make an oral argument before the Acting Secretary at such time as the latter shall designate.

F. H. LARNED,

Acting Commissioner-General.” [73]

Upon receipt of the comments and recommendations from the Acting Commissioner-General of Immigration along with his opinion in the matter, the Acting Secretary of Labor reviewed the same and made the following comment or final decision of his Department:

“After carefully considering all of the evidence contained in these records and summarized and commented upon in the above memorandum, as well as briefs presented by counsel, and after having heard Attorney C. L. Bouve representing the arrested aliens before the Department and A. W. Parker in behalf of the Bureau of Immigration, I hereby approve of the conclusions set forth above, except as noted in the margins, and direct that the action indicated in each particular case shall be taken except as

so noted, and that in the excepted cases (to wit, Sondara, Siroop, Sher Mohammed, Nihal, Dial, Bhan) warrants be canceled.

LOUIS F. POST,
Acting Secretary."

XI.

And your respondent denies the allegations that the said Secretary of Labor issued said warrant of deportation and so directed the deportation of the said four aliens by and through errors and mistakes of law.

1. And your respondent admits the allegations of subdivision 1 of said paragraph XI, except that your respondent denies that the reasons for the warrants of deportation of the said four aliens were not grounds for deportation and alleges further that the issuance of said warrants was under and by virtue of the laws and rules of the Immigration Department.

2. And your respondent denies the allegations in subdivision 2 of paragraph XI that the issuance of said warrant was [74] in violation of law and in excess of the power conferred upon the said Secretary of Labor, and alleges further that said warrant of deportation was issued in accordance with all laws and regulations of the Immigration Department as supported and construed by the courts of the United States.

XII.

And your respondents admits the allegations in paragraph XII of said petition, but denies that said alien has exhausted all his rights and remedies before the Department of Labor in that no petition has been

made for a re-hearing of the case before the said Department.

WHEREFORE, your respondent prays that a writ of Habeas Corpus do not issue herein, that the Order to Show Cause be discharged, and that the Petition be dismissed.

BEN J. L. McKINLEY,
United States Attorney, Attorney for Respondent.

By WALTER. E. HETTMEN,
Assistant United States Atty. [75]

United States of America,
Northern District of California,
City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says:

That he is an immigrant Inspector connected with the Immigration Service for the port of San Francisco, and has been specially directed to appear for, and represent the respondent, Samuel W. Backus, Commissioner of Immigration, in the within entitled matter; that he is familiar with all the facts set forth in the within Return to Order to Show Cause, and knows the contents thereof; that it is impossible for the said Samuel W. Backus to appear in person or to give his attention to said matter; that of affiant's own knowledge, the matters set forth in the Return to Order to Show Cause are true, excepting those matters which are stated on information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

(Duly verified.)

Service of the within Return by copy admitted this 23 day of Dec., 1913, waiving nothing.

H. F. MARSHALL,

[Endorsed] Filed Dec. 23, 1913. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk [76]

Citation on Appeal—Copy

UNITED STATES OF AMERICA,—ss.

The President of the United States, To SAMUEL W. BACKUS, Commissioner of Immigration for the Port of San Francisco, and JOHN W. Preston, United States Attorney, His Legal Representative: Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Northern District of California wherein Henry F. Marshall, petitioner for writs of habeas corpus for and on behalf of Thirty-five Hindus, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING,
United States District Judge for the Northern Dis-

trict of California this 10 day of September, A. D. 1914.

M. T. DOOLING,
United States District Judge.

Service and receipt of a copy of the within Citation is admitted as of this 10th day of September, 1914.

JOHN W. PRESTON,
United States Attorney.
By ED. F. JARED,
Asst. United States Attorney.

[Endorsed]: Filed Sep. 10, 1914. W. B. MALLING, Clerk. By C. W. CALBREATH, Deputy Clerk. [77]

Praecipe for Transcript on Appeal.

In the District Court of the United States, in and for the Northern District of California.

No. 15,500

In the Matter of the Application for a writ of Habeas Corpus by HENRY F. MARSHALL, For and on behalf of Kaiser Singh, Isser Singh, Schumonda Singh, Naran Singh, Go Pi, Amanat Khan, and Rehmat Khan.

No. 15,502.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Attar Singh.

No. 15,503.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Khan Singh, Keher Singh, Mangal Singh, and Neva Singh.

No. 15,524.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Bram Singh.

No. 15,528.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Nika Singh, Ottam Singh, Portapa, Harnan Singh, Joala Singh, Argen Singh, Sunda Singh, Mala Singh, Hardut Singh, Bir Singh, Sarwan Singh, and Dhin Mohammad.

No. 15,529.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Sucha Singh, Niaz Ma Khan, Gulam Din, and Dhian Singh.

No. 15,530.

In the Matter of the Application for a Writ of Habeas Corpus by HENRY F. MARSHALL, for and on behalf of Radha Singh, Gurzechen Singh, Gori Shankar, Variam Singh, and Kehir Singh. [78]

Praecepte.

To the Clerk of said Court:

Sir Please prepare for use as Transcript on Appeal in the above-entitled and numbered cases, the following:

- (a) The Order and Judgment
- (b) The Petition and Notice of Appeal
- (c) The Assignment of Errors
- (d) The Order Allowing Appeal
- (e) The Petition for Writ, filed in case #15,503
- (f) The Order to Show Cause, filed in Case #15,503
- (g) The Return in Case #15503
- (h) The Citation on Appeal.

MEMORANDUM INSTRUCTIONS

In Items b, c, and d, please abbreviate title of Court and Cause as follows: (Style of Court, Titles and Numbers of Causes.)

In item e, f, and g, please abbreviate title of Court and Cause as follows: (Style of Court, title and Cause No. 15503.)

In Item h, please abbreviate title of Court and Causes as in Items b, c, and d.

In Item e, please abbreviate titles of affidavits attached to Petition as Exhibit "E" as follows: (Entitled, Before Department of Labor, in re Kahn Singh), or the name of the individual in whose behalf the affidavit was made. Where signature to affidavit is in foreign language, indicate by (Signature in Hindustani).

In all cases of verification abbreviate by (Duly verified), whether the same be affidavits or petitions.

Very respectfully,

HENRY F. MARSHALL,

Attorney for Petitioner. [79]

[Endorsed]: Filed May 1, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [80]

Certificate of Clerk to Transcript on Appeal.

I, Walter B. Maling, Clerk of the District Court of the United States of America for the Northern District of California, do hereby certify that the foregoing 80 pages, numbered from 1 to 80, inclusive, contain a full, true and correct Transcript of certain records and proceedings, in the matters of the Petitions for Writs of Habeas Corpus, by Henry F. Marshall, for and on behalf of certain Hindoos, numbered 15,500, 15,502, 15,503, 15,524, 15,528, 15,529, and 15,530, respectively, as the same now remain on file and of record in the office of the clerk of said District Court; said Transcript having been prepared pursuant to and in accordance with "Praecipe" (copy of which is embodied in this Transcript), and the instructions of Henry F. Marshall, Esquire, attorney for appellant herein.

I further certify that the costs for preparing and certifying the foregoing Transcript on Appeal is the sum of Thirty-nine and 70/100 (\$39.70) Dollars, and that the same has been paid to me by the attorney for appellant herein.

Annexed hereto is the Original Citation on Ap-

peal, issued herein (paged 82 and 83).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 12th day of September, A. D. 1914.

[Seal]

WALTER B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [81]

Citation on Appeal—Original.

UNITED STATES OF AMERICA.—ss.

The President of the United States to SAMUEL W. BACKUS, Commissioner of Immigration for the Port of San Francisco, and JOHN W. PRESTON, United States Attorney, his legal representative. Greeting.

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court for the Northern District of California, wherein Henry F. Marshall, petitioner for writs of habeas corpus for and on behalf of Thirty-five Hindoos, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING,
United States District Judge for the Northern Dis-
trict of California, this 10 day of September, A. D.
1914.

M. T. DOOLING,
United States District Judge. [82]

Service and receipt of a copy of the within Cita-
tion is admitted as of this 10th day of September,
1914.

JOHN W. PRESTON,
United States Attorney.
By ED. F. JARED,
Asst. United States Attorney. [83]

[Endorsed]: Nos. 15,500, 15,502, 15,503, 15,524,
15,528, 15,529, 15,530. United States District Court
for the Northern District of California. Henry F.
Marshall, etc., Appellant, vs. Samuel W. Backus,
etc. Citation on Appeal. Filed Sep. 10, 1914. W.
B. Maling, Clerk. By C. W. Calbreath, Deputy
Clerk

[Endorsed]: No. 2486. United States Circuit
Court of Appeals for the Ninth Circuit. Henry F.
Marshall, Appellant, vs. Samuel W. Backus, as
Commissioner of Immigration for the Port of San
Francisco, Appellee. In the Matter of the Applica-
tion of Henry F. Marshall, for Writs of Habeas
Corpus on Behalf of Thirty-five Hindus. Tran-
script of Record. Upon Appeal from the United
States District Court for the Northern District of
California, First Division.

Received and filed September 18, 1914.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

**[Order Extending Time to September 20, 1914, to
File Record, etc., in Appellate Court.]**

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

Consolidated Cases Nos. 15,500, 15,502, 15,503, 15,524,
15,528, 15,529, 15,530.

In the Matter of the Application for a Writ of
Habeas Corpus by HENRY F. MARSHALL,
for and on Behalf of, etc.

Good cause therefor appearing, it is ordered that
the appellants in the above-entitled cause may have
to and including September 20th, 1914, within which
to file their record upon appeal and to docket the
cause in the above-entitled court.

Dated September 10, 1914.

M. T. DOOLING,
Judge.

[Endorsed]: No. 2486. In the United States Cir-
cuit Court of Appeal, Ninth Circuit. In the Matter
of the Application for a Writ of Habeas Corpus by
Henry F. Marshall, for and on Behalf of etc. Order
Extending Time Under Rule 16. Filed Sep. 10,
1914. F. D. Monckton, Clerk. Refiled Sep. 18, 1914.
F. D. Monckton, Clerk.

